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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ROBERT ALLEN STANARD,

11 Plaintiff,

12 v.

13 NOLAN, et al.,

14 Defendants.

CASE NO. C19-0017JLR

ORDER ADOPTING REPORT
AND RECOMMENDATION AND
TERMINATING ACTION

15 **I. INTRODUCTION**

16 Before the court are Magistrate Judge Mary Alice Theiler's report and
17 recommendation granting Defendant Sean Nolan, Dan Sproul, Ian Connors, and Mary
18 Mitchell's (collectively, "Defendants") Motion to Dismiss and pro se Plaintiff Robert
19 Stanard's objections thereto.¹ (*See* Objections (Dkt. # 81); R&R (Dkt. # 28); MTD (Dkt.
20 //

21 ¹ The court granted in part Mr. Stanard's motion for an extension of time to file his
22 objections and set a deadline of December 13, 2019. (*See* 11/7/19 Order.) Even so, Mr.
Standard filed his objections five days late, on December 18, 2019. (*See* Objections at 1.)

1 # 15).) Defendants filed a response to Plaintiff’s objections. (*See* Resp. (Dkt. # 32).) For
2 the reasons discussed below, the court ADOPTS the report and recommendation and
3 DISMISSES with prejudice Mr. Stanard’s complaint.

4 **II. STANDARD OF REVIEW**

5 A district court has jurisdiction to review a Magistrate Judge’s report and
6 recommendation on dispositive matters. Fed. R. Civ. P. 72(b). “The district judge must
7 determine de novo any part of the magistrate judge's disposition that has been properly
8 objected to.” *Id.* “A judge of the court may accept, reject, or modify, in whole or in part,
9 the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).
10 The court reviews de novo those portions of the report and recommendation to which
11 specific written objection is made. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121
12 (9th Cir. 2003) (en banc). “The statute makes it clear that the district judge must review
13 the magistrate judge’s findings and recommendations de novo if objection is made, but
14 not otherwise.” *Id.* Because Mr. Stanard is proceeding *pro se*, this court must interpret
15 his complaint and objections liberally. *See Bernhardt v. Los Angeles Cnty.*, 339 F.3d
16 920, 925 (9th Cir. 2003).

17 **III. ANALYSIS**

18 Mr. Stanard alleges in this *Bivens* action that his First and Fifth Amendment
19 Rights were violated when his prison public messaging account was suspended by an
20 employee at the SeaTac Federal Detention Center (“FDC”) and when subsequent
21 attempts to have his account reinstated through the Bureau of Prisons administrative
22 remedy process were rejected. (*See* Compl. (Dkt. # 1-1) at 13-19.) Magistrate Judge

1 Theiler recommends granting Defendants’ motion to dismiss on the basis that “it would
2 be inappropriate to extend the *Bivens* remedy to plaintiff’s First and Fifth Amendment
3 claims.” (*See* R&R at 8.)

4 Liberally construed, Mr. Stanard’s late-filed objections to the report and
5 recommendation present two issues for the court’s review: (1) whether Magistrate Judge
6 Theiler committed an error in her analysis whether the Bureau of Prisons administrative
7 law remedy is adequate; (2) whether Magistrate Judge Theiler erred by finding that
8 Congress, not the court, could authorize a suit for money damages. (*See generally*
9 *Objections; see also Resp.*)

10 The court has thoroughly examined the record and finds Magistrate Judge
11 Theiler’s reasoning persuasive in light of the record and the applicable law. Mr.
12 Stanard’s objections raise issues that were properly analyzed in Magistrate Judge
13 Theiler’s report and recommendation. Magistrate Judge Theiler correctly applied United
14 States Supreme Court authority making clear that “expanding the *Bivens* remedy is now a
15 ‘disfavored’ judicial activity” and noting that the Supreme Court has “consistently
16 refused to extend *Bivens* to any new context or new category of defendants.” (*See* R&R
17 at 5 (quoting *Ziglar v. Abbasi*, 137 S. Ct. 1843, 1857 (2017)).) Mr. Stanard’s objections
18 provide no contrary authority. (*See generally Objections.*) Nevertheless, Magistrate
19 Judge Theiler applied the two-step test for extending *Bivens* and concluded that Mr.
20 Standard’s claims do not meet that test. (*See* R&R at 5-8.) The court finds the report and
21 recommendation persuasive and adopts it in full. Because amendment would be futile

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1 given that Mr. Stanard does not have an actionable *Bivens* claim, the court dismisses his
2 complaint with prejudice.

3 **IV. CONCLUSION**

4 For the foregoing reasons, the court hereby ORDERS as follows:

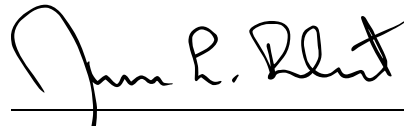
5 (1) The court ADOPTS Magistrate Judge Theiler's report and recommendation
6 (Dkt. # 28) in its entirety;

7 (2) The court GRANTS Defendants' motion to dismiss for failure to state a claim
8 (Dkt. # 15);

9 (3) The court DISMISSES Plaintiff's Civil Rights Complaint (Dkt. # 1-1) and this
10 action WITH PREJUDICE; and

11 (4) The court DIRECTS the Clerk to send copies of this Order to Plaintiff, to
12 counsel for Defendants, and to Magistrate Judge Theiler.

13 Dated this 14th day of January, 2020.

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16 JAMES L. ROBART
17 United States District Judge
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